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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/773,334	01/31/2001	Arlene Balto	99999-0100US01	4268

28863 7590 03/15/2002  
SHUMAKER & SIEFFERT, P. A.  
8425 SEASONS PARKWAY  
SUITE 105  
ST. PAUL, MN 55125

EXAMINER

GRILES, BETHANY L

ART UNIT	PAPER NUMBER
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3643

DATE MAILED: 03/15/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/773,334

Applicant(s)

BALTO, ARLENE

Examiner

Bethany L. Griles

Art Unit

3643

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

PETER M. POON  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600

*pmP*

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 3.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1 and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Gullino et al. (US 3,897,751) (Gullino).

Regarding claim 1, Gullino discloses a housing 10 comprising a front panel 14, a rear panel 14, a bottom panel 12, and two side panels 14 being sized to receive an animal (col 2, line 11), and a fluid container support 34.

Regarding claim 11, Gullino discloses a housing 10 and a fluid container support 34 coupled to the housing.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 2-4 and 6-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gullino in view of Peterson (US 5,988,110) and further in view of Hooper, Jr. (US 5,349,924).

Regarding claim 2, Gullino discloses a first top panel 16.

Gullino does not disclose that the panel 16 is hingedly attached.

Peterson teaches a top panel 32 hingedly attached 33.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teaching of Peterson to the invention of Gullino in order to make the interior of the cage, and therefore the animal, more accessible to its handler.

Gullino as modified by Peterson discloses a hingedly attached top panel.

Gullino as modified by Peterson does not disclose two top panels hingedly attached.

Hooper, Jr. discloses two hingedly attached doors 35a, 35b.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to apply the teachings of Hooper, Jr. to the invention of Gullino as

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modified by Peterson in order to make the better enable the handler to reach and manipulate the animals as needed during treatment.

Regarding claim 3, Gullino discloses a clasp 20 to secure the top panel in a closed position.

Regarding claim 4, Gullino discloses a syringe cradle 31, 38.

Regarding claim 6, Gullino discloses a window 14.

Gullino does not disclose a grate covering the window.

Peterson teaches a grate (col 2, line 55).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teaching of Peterson with the invention of Gullino in order to create a cage which would not restrict airflow to the animal.

Regarding claim 7, Gullino discloses a first top panel 16.

Gullino does not disclose that the panel 16 is hingedly attached.

Peterson teaches a top panel 32 hingedly attached 33.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teaching of Peterson to the invention of Gullino in order to make the interior of the cage, and therefore the animal, more accessible to its handler.

Gullino as modified by Peterson discloses a hingedly attached top panel.

Gullino as modified by Peterson does not disclose two top panels hingedly attached.

Hooper, Jr. discloses two hingedly attached doors 35a, 35b.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to apply the teachings of Hooper, Jr. to the invention of Gullino as modified by Peterson in order to make the better enable the handler to reach and manipulate the animals as needed during treatment.

Regarding claim 8, Gullino discloses a top panel 16.

Gullino does not disclose that the top panel 16 is hingedly attached

Peterson teaches a top panel 32 hingedly attached 33.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teaching of Peterson to the invention of Gullino in order to make the interior of the cage, and therefore the animal, more accessible to its handler.

Gullino as modified by Peterson discloses a hingedly attached top panel.

Gullino as modified by Peterson does not disclose two top panels hingedly attached.

Hooper, Jr. discloses two hingedly attached doors 35a, 35b covering less than one hundred percent of the side opening.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to apply the teachings of Hooper, Jr. to the invention of Gullino as modified by Peterson in order to make the better enable the handler to reach and manipulate the animals as needed during treatment.

Regarding claim 9, Gullino discloses a fluid container support 34 coupled to the housing 14.

Regarding claim 14, Gullino discloses a first top panel 16.

Gullino does not disclose that the panel 16 is hingedly attached.

Peterson teaches a top panel 32 hingedly attached 33.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teaching of Peterson to the invention of Gullino in order to make the interior of the cage, and therefore the animal, more accessible to its handler.

Gullino as modified by Peterson discloses a hingedly attached top panel.

Gullino as modified by Peterson does not disclose two top panels hingedly attached.

Hooper, Jr. discloses two hingedly attached doors 35a, 35b.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to apply the teachings of Hooper, Jr. to the invention of Gullino as modified by Peterson in order to make the better enable the handler to reach and manipulate the animals as needed during treatment.

Regarding claim 15, Gullino discloses a top panel 16.

Gullino does not disclose that the top panel 16 is hingedly attached

Peterson teaches a top panel 32 hingedly attached 33.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teaching of Peterson to the invention of Gullino in order to make the interior of the cage, and therefore the animal, more accessible to its handler.



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Gullino as modified by Peterson discloses a hingedly attached top panel.

Gullino as modified by Peterson does not disclose two top panels hingedly attached.

Hooper, Jr. discloses two hingedly attached doors 35a, 35b covering less than one hundred percent of the side opening.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to apply the teachings of Hooper, Jr. to the invention of Gullino as modified by Peterson in order to make the better enable the handler to reach and manipulate the animals as needed during treatment.

Claims 5 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gullino in view of Wyatt et al. (US 4,508,123) (Wyatt).

Regarding claim 5, Gullino discloses a fluid container support coupled to the housing 34; and a syringe cradle 31, 38.

Gullino does not disclose that the syringe cradle is coupled to the container support.

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Wyatt discloses a syringe cradle (see fig 1, elements 22, 74) coupled to a fluid container support 22.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Wyatt with the invention of Gullino in order to save space within the treatment area, and to closely monitor both elements most conveniently.

Regarding claim 10, Gullino discloses a fluid container support coupled to the housing 34; and a syringe cradle 31, 38.

Gullino does not disclose that the syringe cradle is coupled to the container support.

Wyatt discloses a syringe cradle (see fig 1, elements 22, 74) coupled to a fluid container support 22.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Wyatt with the invention of Gullino in order to save space within the treatment area, and to closely monitor both elements most conveniently.

Regarding claim 12, Gullino discloses a fluid container support coupled to the housing 34; and a syringe cradle 31, 38.

Gullino does not disclose that the syringe cradle is coupled to the container support.

Wyatt discloses a syringe cradle (see fig 1, elements 22, 74) coupled to a fluid container support 22.

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It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Wyatt with the invention of Gullino in order to save space within the treatment area, and to closely monitor both elements most conveniently.

Regarding claim 13, Gullino discloses a fluid container support coupled to the housing 34; and a syringe cradle 31, 38.

Gullino does not disclose that the syringe cradle is coupled to the container support.

Wyatt discloses a syringe cradle (see fig 1, elements 22, 74) coupled to a fluid container support 22.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Wyatt with the invention of Gullino in order to save space within the treatment area, and to closely monitor both elements most conveniently.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Carlin Des 297,471; Chung 4,279,361; Akhavi 4,385,637; Neff 5,009,189; McGhee 6,182,662.

### **Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bethany L. Griles whose telephone number is 703.305.1839. The examiner can normally be reached on Monday through Friday 8:00 am - 4:30 pm.

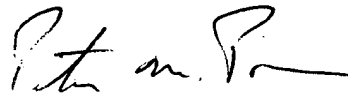
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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Poon can be reached on 703.308.2574. The fax phone numbers for the organization where this application or proceeding is assigned are 703.306.4196 for regular communications and 703.305.3597 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703.306.5771.

Bethany L. Griles  
Examiner  
Art Unit 3643

blg  
March 8, 2002



PETER M. POON  
SUPERVISORY PATENT EXAMINER  
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